

For the Nuclear Regulatory Commission.
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[Docket Nos. 50-254 and 50-265]

**Commonwealth Edison Company;
 Notice of Consideration of Issuance of
 Amendment to Facility Operating
 License, Proposed no Significant
 Hazards Consideration Determination,
 and Opportunity For a Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR-29 and DPR-30 issued to Commonwealth Edison Company (the licensee) for operation of the Quad Cities Nuclear Power Station, Units 1 and 2, located in Rock Island County, Illinois.

The proposed amendment would upgrade the Quad Cities TS to the standard Technical Specifications (STS) contained in NUREG-0123. The Technical Specification Upgrade Program (TSUP) is not a complete adaption of the STS. The TS upgrade focuses on (1) integrating additional information such as equipment operability requirements during shutdown conditions, (2) clarifying requirements such as limiting conditions for operation and action statements utilizing STS terminology, (3) deleting superseded requirements and modifications to the TS based on the licensee's responses to Generic Letters (GL), and (4) relocating specific items to more appropriate TS locations. The September 20, 1995, application proposed to upgrade only Section 6.0 (Administrative Controls) of the Quad Cities TS.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because:

In general, the proposed amendment represents the conversion of current requirements to a more generic format, or the addition of requirements which are based on the current safety analyses. Implementation of these changes will provide increased reliability of equipment assumed to operate in the current safety analyses, or provide continued assurance that specified parameters remain within their acceptance limits, and as such, will not significantly increase the probability or consequences of a previously evaluated accident.

Some of the proposed changes represent minor curtailments of the current requirements which are based on generic guidance or previously approved provisions for other stations. The proposed amendment for Quad Cities Station's Technical Specification Section 6.0 are based on STS guidelines or later operating plant's NRC accepted changes. Any deviations from STS requirements do not significantly increase the probability or consequences of any previously evaluated accidents for Quad Cities Station. The proposed amendment is consistent with the current safety analyses and has been previously determined to represent sufficient requirements for the assurance and reliability of equipment assumed to operate in the safety analyses, or provide continued assurance that specified parameters remain within their acceptance limits. As such, these changes will not significantly increase the probability or consequences of a previously evaluated accident.

Create the possibility of a new or different kind of accident from any previously evaluated because:

In general, the proposed amendment represents the conversion of current requirements to a more generic format, or the addition of requirements which are based on the current safety analyses. Others represent minor curtailments of the current requirements which are based on generic guidance or previously approved provisions for other stations. These changes do not involve revisions to the design of the station. Some of the changes may involve revision in the operation of the station; however, these provide additional restrictions which are in accordance with the current safety analyses, or are to provide for additional testing or surveillances which will not introduce new failure mechanisms beyond those already considered in the current safety analyses.

The proposed amendment for Quad Cities Station's Technical Specification Section 6.0 is based on STS guidelines or later operating plants' NRC accepted changes. The proposed amendment has been reviewed for acceptability at the Quad Cities Nuclear Power Station considering similarity of

system or component design versus the STS or later operating plants. Any deviations from STS requirements do not create the possibility of a new or different kind of accident previously evaluated for Quad Cities Station. No new modes of operation are introduced by the proposed changes. The proposed changes maintain at least the present level of operability. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

Involve a significant reduction in the margin of safety because:

In general, the proposed amendment represents the conversion of current requirements to a more generic format, or the addition of requirements which are based on the current safety analyses. Others represent minor curtailments of the current requirements which are based on generic guidance or previously approved provisions for other stations. Some of the later individual items may introduce minor reductions in the margin of safety when compared to the current requirements. However, other individual changes are the adoption of new requirements which will provide significant enhancement of the reliability of the equipment assumed to operate in the safety analyses, or provide enhanced assurance that specified parameters remain within their acceptance limits. These enhancements compensate for the individual minor reductions, such that taken together, the proposed changes will not significantly reduce the margin of safety.

The proposed amendment to Technical Specification Section 6.0 implements present requirements, or the intent of present requirements in accordance with the guidelines set forth in the STS. Any deviations from STS requirements do not significantly reduce the margin of safety for Dresden or Quad Cities Station. The proposed changes are intended to improve readability, usability, and the understanding of technical specification requirements while maintaining acceptable levels of safe operation. The proposed changes have been evaluated and found to be acceptable for use at Quad Cities based on system design, safety analyses requirements and operational performance. Since the proposed changes are based on NRC accepted provisions at other operating plants that are applicable at Quad Cities and maintain necessary levels of system or component reliability, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 6, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021. If a request for a hearing or petition for leave to intervene is filed by the above date, the

Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to

relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Mr. Robert Capra: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael I. Miller, Esquire, Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the

presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 20, 1995, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Dated at Rockville, Maryland, this 29th day of September, 1995.

For the Nuclear Regulatory Commission.
Robert M. Pulsifer,
*Project Manager, Project Directorate III-2,
Division of Reactor Projects—III/IV, Office of
Nuclear Reactor Regulation.*
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[Docket No. 30-33725; License No. 37-28442-02 EA 95-183]

**J&L Testing Company, Inc.,
Canonsburg, PA; Order Suspending
License (Effective Immediately)**

I

J&L Testing Company, Inc., (Licensee or JLT) is the holder of Byproduct Nuclear Material License No. 37-28442-02 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30. The license authorizes possession and use of Cesium-137 and Americium-241 in sealed sources. The license, originally issued on February 7, 1995, was amended on August 22, 1995, and is due to expire on February 29, 2000.

II

J&L Engineering, Inc., (JLE) a corporation located at the same address and using the same telephone and facsimile numbers as the Licensee, held license No. 37-28442-01 for the same three gauges for which the Licensee is now licensed. John Boschuk, the president of JLE, is the co-owner, along with Lourdes T. Boschuk, of JLT. JLE's license was revoked on August 30, 1993, for non-payment of fees and JLE was ordered, in part, to cease use of byproduct material, dispose of the byproduct material, and notify the NRC of the disposition within 30 days of that order. On October 5, 1994, a Notice of Violation (Notice) was issued to JLE for possession of licensed material without a valid NRC license, as its NRC license had been revoked. On October 11, 1994, John Boschuk responded to the Notice,

stating, among other things, that the " * * * equipment [3-Troxler Nuclear Density gauges] has not been used for over 2 years and has not left the storage area in our office."

On November 21, 1994, JLT submitted an application for a license. The November 21, 1994 cover letter for the application, signed by Lourdes T. Boschuk, President of JLT, stated the following:

* * * submitted herein is our application to restore our expired license to store and operate three (3) Troxler Nuclear Density Gauges (sic). We understand our license was revoked on August 30, 1993. Since that date, these units were not removed from storage nor used in anyway (sic).

Relying on the application and the statement concerning use of the gauges after the time the JLE license was revoked, the NRC issued a new license (License No. 37-28442-02) to JLT on February 7, 1995.

On August 1 and 3, 1995, the NRC conducted a routine safety inspection of activities authorized by License No. 37-28442-02 at the Licensee's facility in Canonsburg, Pennsylvania. During the inspection, an NRC inspector determined, based on a review of utilization logs, that one of the gauges, which JLE and the Licensee separately had stated in writing to the NRC were in storage, had been used on September 1 and 2, 1994 (at a temporary jobsite at the S. Hill Village Sears project), by either JLE or JLT (when neither possessed an NRC license). The use of this gauge without a valid NRC license was in violation of 10 CFR 30.3, which prohibits use of byproduct material without a valid license from the NRC. In addition to this violation, the statements by Ms. Boschuk, in her November 21, 1994 letter to the NRC, and by Mr. Boschuk, in his October 11, 1994 letter to the NRC, were not accurate and, therefore, constituted a violation of 10 CFR 30.9.

During the August 1995 inspection three additional violations of NRC requirements were identified. These violations involved the failure to perform leak tests of the devices (gauges) at the required 6-month intervals as required by Condition 12 of the license, the failure to have an approved Radiation Safety Officer (RSO) (the RSO listed on the license terminated employment on May 26, 1995) as required by License Condition 11A, and the failure to perform inventories of the gauges at the required 6-month intervals as required by Condition 14 of the license. By letter dated September 11, 1995, the Licensee's president stated that the facts of these violations were correct.

A predecisional enforcement conference was held with the Licensee on September 15, 1995, to discuss the five violations identified during the August 1995 inspection. At the conference JLT's president admitted all five violations but offered no explanations for why the material had been used notwithstanding the revocation of JLE's license or for the inaccurate statements made to the NRC.

In addition, based on a September 22, 1995, letter from the State of New York to JLT, it appears that JLT had not requested or obtained reciprocity for use of radioactive materials as required by regulations of the State of New York. JLT also appears to have provided false statements to the New York State Department of Labor concerning use of radioactive material in New York State.

III

Although the NRC has initiated an investigation into these violations, based on the above and on information developed to date, the NRC concludes that the Licensee violated NRC requirements by: (1) providing inaccurate information to the Commission, a violation of 10 CFR 30.9; (2) using and possessing licensed material without a valid NRC license, a violation of 10 CFR 30.3; (3) not performing leak tests of the gauges at the required 6-month intervals, a violation of License Condition 12; (4) not having an approved Radiation Safety Officer (RSO), a violation of License Condition 11A; and (5) not performing inventories of the gauges at the required 6-month intervals, a violation of License Condition 14.

The Atomic Energy Act of 1954, as amended (Act), limits possession and use of byproduct material to those who possess a valid NRC license. In this case, the Licensee's use of the gauge without a license is a significant regulatory concern, particularly in view of the inaccurate information submitted to the Commission in response to the Notice (JLE's October 11, 1994 letter) and in support of an NRC license application (JLT's November 21, 1994 letter). Such inaccurate information was material and influenced the NRC's decision to grant the Licensee an NRC license. The NRC's concern is further heightened given the potential safety significance of the other violations - failure to have an approved RSO, failure to perform required leak tests of the gauges, and failure to perform periodic inventories of the gauges.

While the investigation is ongoing, the NRC has concluded based upon the information developed to date that the Licensee, through its co-owners, who